

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT  
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

CHARA CURTIS, CYNTHIA ALDRICH, AND ALFRED  
CURRIER,

PLAINTIFFS,

v.

ILLUMINATION ARTS, INC., a Washington Corporation,  
ILLUMINATION ARTS PUBLISHING, LLC, a Washington  
Limited Liability Company, JOHN M. THOMPSON and  
KIMMIE LYNN THOMPSON,

DEFENDANTS.

Cause No. 2:12-cv-00991-JLR

RESPONSE TO MOTION FOR SANCTIONS AND  
JUDGMENT

I. Relief Requested

Defendants request the Court deny both the Motion for Sanctions and the Motion for Judgment.

II. Statement of Facts

Defendants provided the bulk of the requested information to the Plaintiffs. *Thompson Decl.* Defendants are still in the process of gathering information regarding Defendant Kim

**CONSOLIDATED RESPONSE TO MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

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Thompson. *Thompson Decl.* Defendants have terminated the legal services of the Law Offices of Matthew R. King. *King Decl.* The Motion for Withdrawal is scheduled for September 13, 2013.

*Docket.*

### III. Statement of Issues

Whether sanctions should be denied as Defendants have not unduly resisted discovery.

### IV. Evidence Relied Upon

In support of this motion, Defendants rely upon the following evidence:

1. The Pro Se Statement of John Thompson, with the exhibits attached thereto;<sup>1</sup>
2. The pleadings and filings in this matter.

### V. Authority and Argument

#### A. Sanctions are Not Appropriate

Defendants have not unduly resisted discovery. In fact, Defendants have provided Plaintiffs an opportunity to review all documents at Defendants' offices. *Thompson Decl.* The civil rules empower courts with the discretion to issue sanctions against a party for discovery abuses, the touchstone is that any sanctions be "just" and that must be related to the particular claim which was at issue in the order to provide discovery. Fed. R. Civ. P. 37(b)(2)(A); *Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 707, 102 S.Ct. 2099, 2108, 72 L.Ed.2d 492 (1982).

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<sup>1</sup> The Pro Se Defendants have drafted a statement and have requested they be filed along with this memorandum. The pro se filings have not been drafted by, nor have signed by Matthew King.

To determine whether a sanction is “just” a court should consider the relevant factors and whether the severity of the sanction is warranted by the conduct involved. *In re Rubin*, 769 F.2d 611 (9th Cir. 1985).

Here, Plaintiffs have had ample opportunity to go on-site and review all of Defendants’ records. Under FRCP 34(B)(2)(b), the responding party must make the records available for inspection and copying. Here, Defendants have done just that. The burden is on the Plaintiffs to make arrangements for inspection and duplication. That has not occurred here.

Plaintiffs’ motion should be denied; the Defendants have opened their business up to full inspection. The motion to compel is improper.

#### VI. Conclusion

Plaintiffs’ motion should be denied. The Defendants have made available the records for inspection and copying, and are more than happy to allow inspection by counsel.

Dated this 26<sup>th</sup> day of August, 2013.

**The Law Offices of Matthew R. King, PLLC**

/s/

Matthew R. King, WSBA 31822  
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DECLARATION OF SERVICE

I, Matthew King, hereby declare under penalty of perjury under the laws of the State of Washington, that I caused a copy of this document to be e-filed with the United States District Court, Western District of Washington, as required by the Court Rules and served via United States District Court ECF to:

Amit D. Ranade  
Kurt E. Kruckeberg  
Hillis Clark Martin & Peterson, P.S.  
1221 Second Avenue, Suite 500  
Seattle, WA 98101-2925

on the 26<sup>th</sup> day of August, 2013.

Dated this 26<sup>th</sup> day of August, 2013 at SEATTLE, Washington.

**The Law Offices of Matthew R. King, PLLC**

/s/

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